

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charlie Hartford	Team: Squad #8	CCRB Case #: 201901322	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/22/2018 9:08 PM	Location of Incident: § 87(2)(b)	Precinct: 52	18 Mo. SOL 5/22/2020	EO SOL 1/6/2021	
Date/Time CV Reported Tue, 02/12/2019 4:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/12/2019 4:19 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Dipaolo	16957	959603	052 PCT
2. POM Joseph Manni	10182	956876	052 PCT
3. POM Tyler Downen	11159	962370	PB ERS
4. POM Vicente Cardenas	00840	959532	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Dipaolo	Abuse: Police Officer Eric Dipaolo entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.POM Joseph Manni	Abuse: Police Officer Joseph Manni entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.POM Eric Dipaolo	Force: Police Officer Eric Dipaolo used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Joseph Manni	Force: Police Officer Joseph Manni used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Tyler Downen	Abuse: Police Officer Tyler Downen entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
F.POM Tyler Downen	Abuse: Police Officer Tyler Downen searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
G.POM Vicente Cardenas	Abuse: Police Officer Vicente Cardenas entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
H.POM Vicente Cardenas	Abuse: Police Officer Vicente Cardenas searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
I.POM Eric Dipaolo	Abuse: Police Officer Eric Dipaolo threatened to arrest § 87(2)(b)	§ 87(2)(b)
J.POM Eric Dipaolo	Discourtesy: Police Officer Eric Dipaolo spoke discourteously to § 87(2)(b)	§ 87(2)(b)
K.POM Joseph Manni	Discourtesy: Police Officer Joseph Manni spoke discourteously to § 87(2)(b)	§ 87(2)(b)
L.POM Eric Dipaolo	Abuse: Police Officer Eric Dipaolo forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
M.POM Joseph Manni	Abuse: Police Officer Joseph Manni forcibly removed § 87(2)(b) to the hospital.	
N.POM Tyler Downen	Abuse: Police Officer Tyler Downen forcibly removed § 87(2)(b) to the hospital.	
O.POM Vicente Cardenas	Abuse: Police Officer Vicente Cardenas forcibly removed § 87(2)(b) to the hospital.	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	

Case Summary

On February 12, 2019, § 87(2)(b) filed this complaint with the CCRB via phone.

On November 22, 2018, at approximately 9:08 p.m., Police Officer Eric Dipaolo and Police Officer Joseph Manni of the 52nd Precinct entered § 87(2)(b) in the Bronx (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Dipaolo and PO Manni used physical force against § 87(2)(b) (**Allegation C: Force**, § 87(2)(g)) (**Allegation D: Force**, § 87(2)(g)). Police Officer Tyler Downen and Police Officer Vicente Cardenas entered and searched § 87(2)(b) in the Bronx (**Allegations E-H: Abuse of Authority**, § 87(2)(g)). PO Dipaolo threatened to arrest § 87(2)(b) (**Allegation I: Abuse of Authority**, § 87(2)(g)). PO Dipaolo allegedly spoke discourteously to § 87(2)(b) (**Allegation J: Discourtesy**, § 87(2)(g)). PO Manni spoke discourteously to an individual (**Allegation K: Discourtesy**, § 87(2)(g)). PO Dipaolo forcibly removed § 87(2)(b) to the hospital (**Allegation L: Abuse of Authority**, § 87(2)(g)). PO Manni, PO Downen and PO Cardenas forcibly removed § 87(2)(b) to the hospital (**Allegations M-O: Abuse of Authority**, § 87(2)(g)). § 87(2)(g), § 87(2)(b).

This case contains body-worn camera footage (Board Review 08, Board Reviews 18-22). This case also contains cell phone video footage provided by § 87(2)(b) (Board Review 02, Board Review 27).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Eric Dipaolo entered § 87(2)(b) in the Bronx.

Allegation (B) Abuse of Authority: Police Officer Joseph Manni entered § 87(2)(b) in the Bronx.

It is undisputed that at approximately 9:08 p.m. on November 22, 2018, which was Thanksgiving, PO Dipaolo, PO Manni, PO Downen, and PO Cardenas responded to a report of an 10-54 EDP overdose at § 87(2)(b) in the Bronx made by a third-party caller who was not at the location. It is undisputed that the radio run included the name of the individual who was reportedly overdosing, § 87(2)(b). It is undisputed that PO Dipaolo used his foot to prevent § 87(2)(b) from closing the door to § 87(2)(b). It is undisputed that PO Dipaolo and PO Manni entered § 87(2)(b) to pull § 87(2)(b) out of the location.

In her sworn statement provided February 15, 2019, § 87(2)(b) stated that at approximately 8:30 p.m. on November 22, 2018, she was hosting Thanksgiving dinner at her apartment at § 87(2)(b) in the Bronx (Board Review 01). Between 10 and 15 friends and family members were in attendance, including her mother, § 87(2)(b). § 87(2)(b) had consumed one glass of wine over the course of the evening. § 87(2)(b) was putting her nephew to sleep in her bedroom when she became aware that there were officers at the door of her apartment.

§ 87(2)(b) went to her front door, where § 87(2)(b) was conversing with the officers. The officers informed § 87(2)(b) that they had received a report of a drug overdose and needed to enter to see if someone was overdosing. Both § 87(2)(b) and § 87(2)(b) informed the officers that no one was overdosing at the location. § 87(2)(b) identified herself by name and stated that she was going to close the door while she retrieved her ID. An officer, identified by the investigation as PO Dipaolo, used his foot to prevent § 87(2)(b) from closing the door. PO Dipaolo and PO Manni then pushed open the door, rushed into the apartment, grabbed § 87(2)(b) and pulled her by her arms into the hallway.

§ 87(2)(b) sworn statement was consistent with her initial complaint (Board Review 17).

§ 87(2)(b) provided a sworn statement to the CCRB on March 28, 2019, as well as a phone statement on March 6, 2019 (Board Review 05 and 06). Both were generally consistent with § 87(2)(b) sworn statement.

PO Manni and PO Dipaolo were interviewed at the CCRB on June 5, 2019 (Board Reviews 09 and 10). Both officers were consistent in stating that the radio run contained the name of the individual who was purportedly overdosing, § 87(2)(b). Both officers were also consistent in stating that § 87(2)(b) identified herself verbally at the door of her apartment, and that § 87(2)(b) stated that she was going to close the door while she retrieved her identification. Both PO Manni and PO Dipaolo stated that after a contentious exchange that lasted for approximately five minutes, § 87(2)(b) attempted to close the door, at which time both officers grabbed § 87(2)(b) pulled her out of the apartment and handcuffed her in the hallway.

In his CCRB interview, PO Dipaolo acknowledged having his foot against the door while speaking with § 87(2)(b) (Board Review 10). PO Dipaolo additionally noted that § 87(2)(b) claimed that an ex-boyfriend had placed the call, and that he had made similar false reports in the past. PO Dipaolo stated that prior to handcuffing § 87(2)(b) he wanted § 87(2)(b) to retrieve her identification; and, if § 87(2)(b) was not the individual overdosing, to enter the apartment to verify that no one needed medical attention. When asked why he did not want to let § 87(2)(b) to close the door despite her stating that she was going to retrieve her identification, PO Dipaolo stated that he believed that § 87(2)(b) was the EDP for whom the 911 call had been placed, and that if she closed the door the situation would have escalated to a “barricaded EDP.” PO Dipaolo stated that during the interaction, § 87(2)(b) had a strong odor of alcohol on her breath, but there was nothing else leading her to believe she was intoxicated. PO Dipaolo further stated that based upon her personality and aggressive demeanor at that time, he believed § 87(2)(b) was liable to “at any point become a danger to herself.” However, § 87(2)(b) did not make statements about harming herself.

In his CCRB interview, PO Manni stated that his intention in pulling § 87(2)(b) out into the hallway was to bring her to EMS (Board Review 09). PO Manni repeatedly stated during his interview that § 87(2)(b) identified herself by name but did not provide identification, and that officers “went on that information,” without directly answering whether he believed at the time that the individual he was speaking to was in fact § 87(2)(b). Upon being directly asked by his PBA representative whether he was “100% certain” that § 87(2)(b) was who she said

she was, PO Manni stated that he was not. When asked if § 87(2)(b) appeared to be overdosing, PO Manni initially responded by stating that § 87(2)(b) was “standing and talking” to the officers. Later in the interview, PO Manni claimed that he was unsure during the interaction whether § 87(2)(b) had ingested a substance that could cause an overdose, and noted, at the behest of his PBA representative, that he was not a medical professional. PO Manni believed that § 87(2)(b) was intoxicated based on the odor of alcohol on her breath, her having a “glassy look” on her face, and the fact that it was Thanksgiving.

During his CCRB interview, PO Downen stated that he did not recall if § 87(2)(b) identified herself during the interaction, and that he did not believe that she was the individual who was overdosing or for whom the 911 call had been placed (Board Review 11).

PO Cardenas stated during his CCRB interview that § 87(2)(b) refused to identify herself and that he believed her to be the subject of the 911 call solely on the basis of her combative behavior. PO Cardenas stated it was clear at the time she was handcuffed that she was the subject of the 911 call, but did not remember why this was the case (Board Review 12).

§ 87(2)(b) medical records note that although § 87(2)(b) acknowledged consuming two glasses of wine over dinner, as of 10:35 p.m. she was determined to be “clinically sober” and was speaking in “full clear sentences” (Board Review 07 and 23). As of 10:49 p.m., § 87(2)(b) s medical records note that she appeared “very clinically sober” and would be discharged.

This incident is depicted on body-worn camera footage. At 00:51 minutes in PO Cardenas’ BWC, PO Cardenas is depicted approaching the door of § 87(2)(b) stating “Somebody’s ODing?” (Board Review 18). An unknown individual standing outside the door replies, “ODing? Nah, nobody, not here.” Upon PO Cardenas asking what the problem is, the unknown male states, “Nobody’s the problem, they’re just arguing. I’m trying to get them out.” At 01:17 minutes, PO Cardenas calls over the radio stating that there is no overdose at the location, just a “family dispute.”

Between 01:09 and 2:20 minutes in PO Dipaolo’s BWC, PO Dipaolo is depicted speaking with § 87(2)(b) at the doorway of § 87(2)(b) apartment, stating that officers need to enter to “make sure everybody’s okay” (Board Review 20). § 87(2)(b) is depicted immediately responding that “everybody’s good” and repeatedly denying officers permission to enter the residence. At 02:21 minutes, § 87(2)(b) is depicted opening the door stating, “This is my apartment, and I know exactly who called, you guys can dismiss yourselves.” At 02:35 minutes, § 87(2)(b) identifies herself as § 87(2)(b) and PO Dipaolo responds, “I know, that’s the name that came up. I got ya.” At 2:45 minutes, § 87(2)(b) states, “That’s a fucking ex-boyfriend okay. You guys can go. Thank you. It’s Thanksgiving. Enjoy yourselves.” At 02:50, § 87(2)(b) reiterates that this is her apartment and that she is the person the 911 caller was calling for. PO Manni can be heard asking § 87(2)(b) if she has ID, at which time § 87(2)(b) who appears to be wearing a bathrobe, responds that she does not have her “fucking ID” because it is in the room. § 87(2)(b) then states that she will get her ID if PO Dipaolo will move his leg and allow her to close her door. § 87(2)(b) and PO Dipaolo continue to argue, with § 87(2)(b) stating at 03:45 minutes that PO Dipaolo needs to “move his foot” so she can get her ID. PO Dipaolo responds that the officers still need to look inside the make sure everyone

In Brigham City v. Stuart, 547 US 398 [2006], the Supreme Court of the United States stated that “This Court has repeatedly rejected respondents' contention that, in assessing the reasonableness of an entry, consideration should be given to the subjective motivations of individual officers” (Board Review 25). The New York Court of Appeals has not ruled upon whether to retain a subjective assessment of the officers’ motivation as it pertains to the emergency exception to the warrant requirement (see People v. Doll, 98 AD3d 356 [4th Dept 2012]) (Board Review 26).

[illegible]

Allegation (C) Force: Police Officer Eric Dipaolo used physical force against § 87(2)(b)

Allegation (D) Force: Police Officer Joseph Manni used physical force against § 87(2)(b)

It is undisputed that PO Dipaolo and PO Manni pulled § 87(2)(b) out of § 87(2)(b)

In his CCRB interview, PO Manni described § 87(2)(b) as irate, uncooperative, and verbally abusive towards the officers, and stated that his intention in pulling § 87(2)(b) out into the hallway was to bring her to EMS (Board Review 09).

PO Dipaolo relayed in his CCRB interview that § 87(2)(b) called the officers “white bitch ass niggas,” “perverts,” and told the officers that they only had a “two-year degree” (Board Review 10). PO Dipaolo also relayed that § 87(2)(b) grabbed his arm during the interaction. PO Dipaolo stated that he and PO Manni grabbed § 87(2)(b) to restrain her because she was irate and physically aggressive, as well as for officer safety and the safety of the civilians present. When asked why he did not want to let § 87(2)(b) to close the door despite her stating that she was going to retrieve her identification, PO Dipaolo stated that he believed that § 87(2)(b) was the EDP for whom the 911 call had been placed, and that if she closed the door the situation would have escalated to a “barricaded EDP.”

PO Downen and Cardenas provided statements to the CCRB which were consistent with that of PO Manni and PO Dipaolo (Board Reviews 11 and 12).

As noted above, beginning at 02:21 minutes in PO Dipaolo’s BWC footage, § 87(2)(b) is depicted identifying herself by name, and explaining that the overdose had been falsely reported by her ex-boyfriend (Board Review 20). At 03:07 minutes, § 87(2)(b) is depicted stating that she will retrieve her ID if PO Dipaolo will remove his foot from her door. § 87(2)(b) is depicted becoming increasingly upset as PO Dipaolo repeatedly refuses to move his foot and states that officers intend to enter the apartment regardless. At 06:34 minutes, § 87(2)(b) is depicted attempting to close the door, and PO Dipaolo and PO Manny are depicted entering and pulling § 87(2)(b) out of the apartment.

Patrol Guide Procedure 221-01 states that officers may use force under two scenarios: when it is reasonable to ensure the safety of a member of the service or a third person, and when it is reasonable to place a person in custody or to prevent escape from custody (Board Review 28). When appropriate and consistent with personal safety, officers are instructed to use de-escalation techniques to gain voluntary compliance from a subject in lieu of the use of force.

Patrol Guide Procedure 221-13 defines an emotionally disturbed person, or EDP, as “a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others” (Board Review 29). Per this procedure, if an emotionally disturbed person’s actions do not constitute an immediate threat of serious physical injury to herself or others, officers are directed to attempt to “isolate and contain” the EDP until the arrival of the patrol supervisor and Emergency Service Unit personnel. Officers are prohibited from attempting to take the EDP into custody without the specific direction of a supervisor.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Tyler Downen entered § 87(2)(b)
in the Bronx.

Allegation (F) Abuse of Authority: Police Officer Tyler Dowen searched § 87(2)(b)
in the Bronx.

Allegation (G) Abuse of Authority: Police Officer Vicente Cardenas entered § 87(2)(b)
in the Bronx.

Allegation (H) Abuse of Authority: Police Officer Vicente Cardenas searched § 87(2)(b)
in the Bronx.

It is undisputed that officers responded to a report regarding a specific individual, § 87(2)(b) having an overdose at § 87(2)(b) in the Bronx. As noted above, the CCRB established that § 87(2)(b) identified herself by name and offered to retrieve identification prior to officers making entry. The investigation also established that § 87(2)(b) and an unidentified individual informed the officers that no one was overdosing inside the apartment. It is undisputed that after § 87(2)(b) was pulled out of her apartment, PO Downen and PO Cardenas entered and searched § 87(2)(b) in the Bronx to make sure that none of the occupants were overdosing.

When asked to describe the investigative steps taken by officers to evaluate the situation during his CCRB interview, PO Downen stated that officers asked who called at the location and whether they could enter (Board Review 11). PO Downen did not recall any discussion among the officers regarding how they should proceed or additional information they learned as the situation progressed. PO Downen did not recall if he saw other occupants inside the apartment, and never

learned of the existence of other occupants from § 87(2)(b) or § 87(2)(b) PO Downen did not believe that either § 87(2)(b) or § 87(2)(b) was the individual who was reported to have an overdose, because neither individual appeared to be overdosing.

In his CCRB interview, PO Cardenas stated that he believed § 87(2)(b) was the subject of the 911 call; however, she did not appear to be in any medical distress during the interaction (Board Review 12). PO Cardenas could not see other occupants inside the apartment while officers were speaking with § 87(2)(b) PO Cardenas did not recall what investigative steps the officers took upon arriving at the apartment.

Per Brigham City v. Stuart, 547 US 398 [2006], officers may enter a private residence when they have “have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property” (Board Review 25). Warrantless searches of private residences are otherwise presumptively unreasonable. The New York Court of Appeals has not ruled upon whether to retain a subjective assessment of the officers’ motivation as it pertains to the emergency exception to the warrant requirement (see People v. Doll, 98 AD3d 356 [4th Dept 2012]) (Board Review 26).

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer Eric Dipaolo threatened to arrest § 87(2)(b)

It is undisputed that, after § 87(2)(b) was handcuffed, PO Dipaolo stated that § 87(2)(b) was under arrest for Obstruction of Governmental Administration, and that PO Dipaolo told § 87(2)(b) “Ma’am, you’re gonna go too.”

During his CCRB interview, PO Dipaolo stated that he would have arrested § 87(2)(b) for Obstruction of Governmental Administration (Board Review 10). § 87(2)(b) had already been handcuffed at the point in time that PO Dipaolo threatened to arrest § 87(2)(b). When asked how § 87(2)(b) impeded the officers from taking law enforcement action, PO Dipaolo stated that the officers were in a confined space while removing § 87(2)(b) and § 87(2)(b) was getting involved. § 87(2)(b) did not make physical contact with PO Dipaolo. PO Dipaolo did not recall § 87(2)(b) making physical contact with any officers at that point in time.

This portion of the incident is depicted from 07:56 to 08:33 minutes in PO Dipaolo’s body-worn camera footage (Board Review 20). From 08:27 minutes until 08:45 minutes in PO Cardenas’ body-worn camera footage, § 87(2)(b) can be seen holding onto § 87(2)(b) while stating, “You’re not taking my child like this.”

NYS PL 195.05 states that a person is guilty of obstructing governmental administration when she attempts to prevent a public servant from performing an official function via physical interference (Board Review 30).

§ 87(2)(g)

Allegation (J) Discourtesy: Police Officer Eric Dipaolo spoke discourteously to § 87(2)(b)

In her sworn statement, § 87(2)(b) alleged that an officer, identified by the investigation as PO Dipaolo, used profanity throughout the interaction, making remarks such as “Calm the fuck down,” and referring to the situation as “shit” (Board Review 01). Though PO Dipaolo acknowledged in his CCRB interview that he may have used profanity during the interaction, a review of PO Dipaolo’s BWC footage indicates that he did not in fact use profanity during the interaction (Board Reviews 10 and 20). At 18:25 minutes in his BWC footage, PO Dipaolo is depicting telling § 87(2)(b) “If you acted like a lady, things would go a little differently,” to § 87(2)(b) (Board Review 20).

§ 87(2)(g)

Allegation (K) Discourtesy: Police Officer Joseph Manni spoke discourteously to § 87(2)(b)

It is undisputed that PO Manni stated, “Listen you have like five seconds to get those pants on- I’ve had enough of this fucking girl. Get this shit on her right now. I’ve had enough-put this shit on.” PO Manni stated during his CCRB interview that he was upset during the interaction, that there was no reason to make this statement, and stated that he was not trying to achieve any purpose by using profanity (Board Review 09).

PO Manni is depicted making this statement at 13:34 minutes in his body-worn camera footage (Board Review 21). There is no civilian statement regarding this allegation; however, § 87(2)(b) is depicted objecting to PO Manni’s use of profanity on body-worn camera.

Patrol Guide Section 203-10 instructs NYPD officers to refrain from using discourteous and disrespectful remarks towards civilians (Board Review 31).

The Deputy Commissioner of Trials has consistently held that “while police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations,” and that “profane remarks, made during stressful situations or while an officer is trying to get a chaotic situation under control, are not misconduct” (see Disciplinary Case No. 2013-10143 and Disciplinary Case No. 2017-17005, respectively) (Board Reviews 32-33). In Disciplinary Case No. 2013-10143, the DCT found that it was not misconduct for an officer to tell a civilian, “Punch me and fucking see, dickhead,” after he had been hit in the face by an intoxicated psychiatric patient.

By contrast, in Disciplinary Case No. 2017-17005, the Court found an officer guilty for telling a civilian bystander to “shut the fuck up” (Board Review 33). Noting that “the extension of an exception to a rule should be circumscribed... [o]therwise the exception will swallow the rule,” the court found the remark “completely unnecessary and without a legitimate police purpose,” because the situation was “not so chaotic that the duty of courteous and professional behavior should be overridden by the immediate need to maintain order.”

§ 87(2)(g)
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§ 87(2)(g)
§ 87(2)(g)

Allegation (L) Abuse of Authority: Police Officer Eric Dipaolo forcibly removed § 87(2)(b) to the hospital.

Allegation (M) Abuse of Authority: Police Officer Joseph Manni forcibly removed § 87(2)(b) to the hospital.

Allegation (N) Abuse of Authority: Police Officer Tyler Downen forcibly removed § 87(2)(b) to the hospital.

Allegation (O) Abuse of Authority: Police Officer Vicente Cardenas forcibly removed § 87(2)(b) to the hospital.

It is undisputed that § 87(2)(b) was involuntarily removed to the hospital.

PO Dipaolo stated during his CCRB interview that § 87(2)(b) had a strong odor of alcohol on her breath, but that nothing else led him to believe she was intoxicated during the incident (Board Review 10). While § 87(2)(b) made no comments or statements about harming herself during the interaction, PO Dipaolo stated that he believed § 87(2)(b) was liable to harm herself based upon her demeanor during the interaction. PO Dipaolo stated during his CCRB interview that it is not possible for officers to decide to involuntarily remove someone to the hospital, because EMS evaluates civilians and makes this determination. When asked if EMS evaluated § 87(2)(b) PO Dipaolo stated that he believed this was the case, as § 87(2)(b) was removed to the hospital.

PO Manni affirmed that officers made the decision to remove § 87(2)(b) to the hospital (Board Review 09). When asked if § 87(2)(b) appeared to be overdosing, PO Manni initially responded by stating that § 87(2)(b) was “standing and talking” to the officers. Later in the interview, PO Manni claimed that he was unsure during the interaction whether § 87(2)(b) had ingested a substance that could cause an overdose, and noted, at the behest of his PBA representative, that he was not a medical professional. PO Manni believed that § 87(2)(b) was intoxicated based on the odor of alcohol on her breath, her having a “glassy look” on her face, and the fact that it was Thanksgiving.

During his CCRB interview, PO Downen stated that officers made the decision to remove § 87(2)(b) to the hospital upon consultation with EMS staff (Board Review 11). § 87(2)(b) was

removed to the hospital for apparent intoxication and aggressive behavior. PO Downen stated that § 87(2)(b) did not appear to be intoxicated on anything other than alcohol.

While PO Cardenas initially stated during his CCRB interview that § 87(2)(b) did not appear to be in any medical distress during the interaction, he later stated that he believed § 87(2)(b) needed medical attention because of her behavior, which was out of character for someone informed of a medical emergency (Board Review 12). PO Cardenas stated that it was EMS' decision to remove § 87(2)(b) to the hospital.

§ 87(2)(b) medical records note that although § 87(2)(b) acknowledged consuming two glasses of wine over dinner, as of 10:35 p.m. she was determined to be "clinically sober" and was speaking in "full clear sentences" (Board Review 23) As of 10:49 p.m., § 87(2)(b)'s medical records note that she appeared "very clinically sober" and would be discharged.

At 05:34 minutes in PO Dowens' BWC, PO Downen is depicted telling one EMT Garrabrant, "Yeah, no overdose, just an ED—uh, intox" (Board Review 22) At 06:03, another unidentified EMT is depicted asking PO Downen, "So what happened?" PO Downen states, "Uh, it came over as an overdose. Uh, nobody overdosed, it was just like a family dispute." At 06:18, "So then we tried to enter to make sure everybody was alright and she refused entry. And then she, uh, got a little crazy on us, swinging on us." The EMT then asks if § 87(2)(b) has a psych history, to which EMT Downen replied, "I think she's just intox."

Beginning at 15:51 minutes in PO Dipaolo's BWC, officers are depicted leading § 87(2)(b) into an ambulance in handcuffs (Board Review 20). At 18:20 minutes, EMTs can be heard speaking with § 87(2)(b) while she is handcuffed in the ambulance. § 87(2)(b) is not depicted being evaluated or spoken to by EMTs prior to this point in the interaction.

Event documentation contains no record of a patrol supervisor being requested during the incident (Board Review 04).

Patrol Guide Procedure 216-01 states: "whenever a uniformed member of the service is present at the scene of an aided case that is not life threatening, and there is a difference of opinion between the aided, aided's family, or other interested parties and Emergency Medical Service (EMS) personnel relative to the medical treatment or removal of the aided to a hospital, the member concerned will IMMEDIATELY request the patrol supervisor and an EMS supervisor to respond to the scene. If the patrol supervisor is not available, the Communications Section dispatcher will automatically direct the patrol supervisor from the adjoining command to respond without delay. The patrol supervisor will immediately respond to ascertain the facts, and if the situation is resolved, the request for the EMS supervisor will be canceled. If the situation cannot be properly resolved, the patrol supervisor will make a second request for an EMS supervisor to respond to the scene" (Board Review 35).

Patrol Guide Procedure 221-13 defines an emotionally disturbed person, or EDP, as "a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others" (Board Review 29). Per this procedure, if an emotionally disturbed person's actions do not

constitute an immediate threat of serious physical injury to herself or others, officers are directed to attempt to “isolate and contain” the EDP until the arrival of the patrol supervisor and Emergency Service Unit personnel. Officers are prohibited from attempting to take the EDP into custody without the specific direction of a supervisor.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is § 87(2)(b) and § 87(2)(b)'s first CCRB complaint (Board Review 13 and 36).
- PO Dipaolo was a member of service for three years. In that time, he was the subject of one prior allegation regarding a forcible removal to the hospital, which was exonerated.
- PO Manni has been a member of service for five years. He has not been listed as a subject in any prior CCRB complaints.
- PO Downen has been a member of service for two years. He has not been listed as a subject in any prior CCRB complaints.
- PO Cardenas has been a member of service for three years. He has not been listed as a subject in any prior CCRB complaints.

Mediation, Civil and Criminal Histories

- A FOIL request filed with the NYC Comptroller's office on May 22, 2019 indicated that § 87(2)(b) has not filed a notice of claim regarding this case (Board Review 37).
- § 87(2)(b) rejected mediation (Board Review 01).
- A query of the Office of Court Administration database conducted on July 9, 2019 indicates that neither § 87(2)(b) nor § 87(2)(b) has any criminal convictions in NYC (Board Reviews 15 and 16).

Squad No.: _____

Investigator: _____

	Signature	Print Title & Name	Date
Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date